

Chapter 60

ENVIRONMENTAL HAZARDS

ARTICLE I
Plastic and Marine Hazards Reduction
[Adopted 9-26-2020 ATM by Art. 18]

§ 60-1. Preamble.

This bylaw seeks to reduce the reliance on single-use plastics by residents and visitors within the Town of Eastham. It further seeks to reduce the hazard to wildlife caused by balloons filled with lighter-than-air gases. The intent is for the Town of Eastham to:

- A. Phase out single-use plastic checkout bag.
- B. Phase out the use of polystyrene, plastic straws, and polystyrene disposable food services containers and cutlery.
- C. Ban the sale, distribution, and intentional release of helium balloons.

§ 60-2. Definitions.

CHECKOUT BAG — Shall mean a carryout bag provided by a retail establishment to a customer at the point of sale.

FOOD ESTABLISHMENTS — Shall mean any operations including without limitation, restaurants, schools, farmers' markets, and other public venues that store, prepare, package, serve, vend and otherwise provide food for human consumption. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000 et seq., shall be considered a food establishment for the purposes of this bylaw.

LIGHTER-THAN-AIR GAS — Shall mean a gas that is buoyant in air because it has a density less than air (including but not limited to helium gas). Herein, "helium" will be used interchangeably with "lighter-than-air gas."

PLASTIC STRAW — Shall mean any single-use thin plastic tube that is meant to allow its user to more conveniently consume a beverage, including but not limited to those made from polyethylene, polypropylene and polystyrene.

POLYSTYRENE — Shall mean blown polystyrene (polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam) and expanded and extruded forms, which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion blown molding (extruded foam polystyrene), sometimes called "styrofoam," a Dow Chemical Co. trademarked form of polystyrene foam. It bears the recycling Number 6.

POLYSTYRENE DISPOSABLE FOOD SERVICES CONTAINERS AND CUTLERY — Shall mean single-use disposable products made from polystyrene for serving or transporting food or beverages, including without limitation take-out foods and/or leftovers from partially consumed meals prepared by a restaurant and/or retail food establishment. This includes but is not limited to plates, cups, bowls, trays, hinged or lidded containers, straws, stirrers, cup lids, and cutlery. It shall also include single-use disposable packaging for uncooked foods prepared on the premises, as well as disposable catering trays.

PUBLIC VENUES — Shall mean facilities available for public use without charge, including but not limited to meeting halls, churches, Town offices, Recreation Department, Library and schools.

RETAIL ESTABLISHMENT — Shall mean any person, corporation, partnership, business venture, or vendor that sells or provides merchandise, goods or materials directly to a customer, whether for or not for profit, including but not limited to restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, jewelry stores, household goods stores, and bazaars or festivals.

§ 60-3. Plastic checkout bag reduction.

A. Requirements.

- (1) Retail establishments shall not use, sell or distribute single use plastic checkout bags. Durable bags made from polypropylene or polyester intended for long-term reuse are still permitted.
- (2) The Board of Health may promulgate rules and regulations to implement this section.
- (3) Any old stock not used will be accepted by the Eastham Transfer Station free of charge for proper disposal until November 30, 2021.

B. Enforcement. This bylaw may be enforced by any Town of Eastham police officer, Health Agent or her designee, and any agents designated by the Select Board.

C. Violations.

- (1) Enforcement of fines will begin on November 1, 2021.
 - (a) First offense: written warning.
 - (b) Second offense: fine of \$200.
 - (c) Third and subsequent offenses: fine of \$300.
- (2) Each day or portion thereof that a violation continues shall constitute a separate offense.
- (3) Each offense occurring within two years of the date of a prior reported offense will be considered a subsequent offense.

§ 60-4. Polystyrene reduction.

The Town of Eastham will phase out the use of polystyrene, plastic straws, and polystyrene disposable food services containers and cutlery.

A. Requirements.

- (1) Food establishments and retail establishments shall not use, sell or distribute polystyrene, plastic straws, and polystyrene disposable food services containers and cutlery, including foam packing peanuts and polystyrene foam coolers (including styrofoam coolers). Any stock remaining after that date

shall be accepted for disposal free of charge at the Eastham Transfer Station for proper disposal, through November 30, 2021.

- (2) This bylaw shall not apply to polystyrene packing peanuts and foam packaging reused from shipments coming into Eastham; prepackaged meat and produce trays, egg cartons and other foods or beverages bought from a wholesaler or out-of-town supplier, or polystyrene foam freezer chests enclosed in durable rigid plastic.
 - (3) Accommodation for disabled residents and visitors: In recognition of the needs of disabled citizens and visitors, businesses shall make available on demand bendable plastic straws. They may not question patrons about their disabilities nor demand proof of disability. The Eastham Senior Center is exempt from the provisions of this bylaw concerning plastic drinking straws.
 - (4) Single-use service containers and cutlery, including but not limited to bowls, cups, trays, and plates, must be 100% recyclable or compostable in a natural setting at a rate comparable to other biodegradable materials such as paper, leaves, and food waste. Compostable products requiring a commercial composting facility or a composting facility where temperatures reach 140° F. may not be used until such time as the residents and businesses in Eastham have reliable access to such facilities as determined by the Select Board or its designees.
- B. Enforcement. This bylaw may be enforced by any Town of Eastham police officer or designee, or any agent designated by the Select Board.
- C. Violations.
- (1) Enforcement of fines will begin on November 1, 2021.
 - (a) First offense: written warning.
 - (b) Second offense: fine of \$200.
 - (c) Third and subsequent offenses: fine of \$300.
 - (2) Each day or portion thereof that a violation continues shall constitute a separate offense.
 - (3) Each offense occurring within two years of the date of a prior reported offense will be considered a subsequent offense.
 - (4) The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 590.15, may suspend or revoke the food service permit for any establishment failing to comply with this bylaw.

§ 60-5. Balloon ban.

- A. Balloons filled with lighter-than-air gas (including but not limited to helium) and their strings constitute a public nuisance creating litter along our beaches and in our salt marshes and pose a danger to sea turtles, marine mammals, marine and

terrestrial birds, and to small wildlife. Mylar balloons, when tangled with power lines, can cause power outages. Therefore, the Town of Eastham will ban the sale, distribution, and intentional release of helium balloons.

- B. No person shall sell or distribute to the public, any type of balloon (including but not limited to plastic, latex, rubber or Mylar balloons) inflated with any type of lighter-than-air gas. This includes so-called Chinese floating lanterns. No businesses or events shall use balloons with lighter-than-air gas as advertising props.
- C. No person shall intentionally release, or cause to be released, any balloon into the air in the Town of Eastham. No person shall throw, deposit, discard or otherwise discharge inflated or uninflated balloons into any street, alley, waterway, park, beach or other public place in the Town of Eastham.
 - (1) Exemptions. The launching of balloons inflated with lighter-than-air gas by government agencies or scientific research organizations is allowed. This law does not apply to dirigibles or lighter-than-air aircraft which are intended to be recovered after use.
 - (2) Enforcement. This bylaw may be enforced by any Town of Eastham police officer, Natural Resources Officer, or any agent authorized by the Select Board.
 - (3) Violations.
 - (a) Enforcement of fines will begin on November 1, 2021.
 - [1] First offense: written warning.
 - [2] Second offense: fine of \$200.
 - [3] Third and subsequent offenses: fine of \$300.
 - (4) Each day or portion thereof that a violation continues shall constitute a separate offense.
 - (5) Each offense occurring within two years of the date of a prior reported offense will be considered a subsequent offense. Each balloon may constitute a separate offense.

§ 60-6. Severability.

If any provision of this bylaw is declared invalid, or unenforceable, the other provisions shall not be affected thereby.

ARTICLE II
Single-Use Water Bottle Ban
[Adopted 9-26-2020 by ATM by Art. 19]

§ 60-7. Sale of single-use plastic water bottles.

Effective on September 21, 2021, it shall be unlawful to sell noncarbonated, unflavored drinking water in single-use plastic bottles of less than one gallon in the Town of Eastham. Enforcement of this regulation will begin September 1, 2021.

§ 60-8. Definitions.

SINGLE-USE PLASTIC BOTTLE — A beverage container made from any type of plastic resin.

§ 60-9. Exemptions.

Sales or distribution of noncarbonated, unflavored drinking water in single-use plastic bottles occurring subsequent to a declaration of emergency by the Emergency Management Director or other duly authorized Town, county, state or federal official affecting the availability and/or quality of drinking water to the Town shall be exempt from this bylaw until seven days after the declaration has ended.

§ 60-10. Enforcement.

- A. Enforcement of this article shall be the responsibility of the Town Manager or his/her designee. The Town Manager shall determine the inspection process to be followed, incorporating the process into other Town duties as appropriate. Any establishment conducting sales in violation of this article shall be subject to a noncriminal disposition fine as specified in Massachusetts General Laws, Chapter 40, Section 21D. The following penalties apply:
- (1) First violation: written warning.
 - (2) Second violation: fine of \$150.
 - (3) Third and subsequent violations: fine of \$300.
- B. Each day a violation continues constitutes a separate violation, incurring additional fines. Any such fine collected shall be payable to the Town of Eastham. All businesses will be routinely inspected until the Town Manager deems the inspection to be no longer required.

